

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

STEFANIE LUNDGREN,)	Case No. DISM-00-0033
)	
Appellant,)	FINDINGS OF FACT, CONCLUSIONS OF LAW
)	AND ORDER OF THE BOARD
v.)	
)	
WASHINGTON STATE UNIVERSITY,)	
)	
Respondent.)	

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held at the Compton Union Building at the Washington State University in Pullman, Washington, on June 27, 2000. LEANA D. LAMB, Member did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant did not appear and no representative appeared on her behalf. Respondent Washington State University was represented by Donna Stambaugh, Assistant Attorney General.

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of dismissal for neglect of duty, inefficiency, excessive absenteeism, insubordination and inappropriate use of state resources.

1.4 **Citations Discussed.** WAC 358-30-170; WAC 251-12-240(1); Baker v. Dep't of Corrections, PAB No. D82-084 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Anane v. Human Rights Commission, PAB No. D94-022 (1995), *appeal dismissed*, 95-2-04019-2 (Thurston Co.

1 Super. Ct. Jan. 10, 1997); Countryman v. Dep't of Social & Health Services, PAB No. D94-025 (1995);
2 Burgess v. University of Washington, PAB No. D93-151 (1994); Aquino v. University of Washington, PAB
3 No. D93-163 (1995).

5 II. FINDINGS OF FACT

6 2.1 Appellant Stefanie Lundgren was a Custodian and permanent employee for Respondent Washington
7 State University in the Department of Housing Services. Appellant and Respondent are subject to Chapters
8 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a
9 timely appeal with the Personnel Appeals Board on May 3, 2000.

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11 2.2 By letter dated March 29, 2000, Gerald J. Maczynski, Director of Housing and Dining Services,
12 informed Appellant of her dismissal, effective April 17, 2000. Mr. Maczynski charged Appellant with
13 neglect of duty, inefficiency, excessive absenteeism, insubordination and inappropriate use of state resources.
14 Mr. Maczynski alleged that Appellant repeatedly failed to report to work, failed to provide medical
15 verification of her absences as required, and used a university owned laundry facility for her personal use.

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17 2.3 Appellant had been employed by Washington State University since April 1996.

18
19 2.4 Appellant had been counseled by her supervisor and was given clear expectations regarding her
20 attendance and calling in her absences. In addition, Appellant received formal and informal disciplinary
21 actions for her continued tardiness and excessive absenteeism, including:

- 22 • A September 10, 1998, letter of reprimand for Appellant's unauthorized use of leave and her
23 failure to comply with a directive that she provide medical verification from doctors confirming
24 her absences due to illness. Appellant was warned that any further use of unauthorized use of
25 leave without pay could result disciplinary action.
- 26 • A December 31, 1998, letter of reprimand for Appellant's excessive absenteeism. Appellant was
directed to report to her supervisor, by the beginning of her shift, her inability to report to work

as scheduled and to provide a medical statement verifying the need for absences due to illness or disability.

- On February 1999, Ernest Renfro, Assistant Vice President for Business Affairs, reduced Appellant's salary for four months for neglect of duty, excessive absenteeism and failure to follow written instructions.
- On May 12, 1999, Mr. Renfro reduced Appellant's salary for six months for neglect of duty, inefficiency and excessive absenteeism for Appellant's failure to report to work on a regular basis.

2.5 Between May 19, 1999 and March 7, 2000, Appellant was absent, late or left work early on a total of 56 work days. In addition, Appellant failed to provide her supervisor medical verification for absences from work due to illness on May 26, 1999, June 15, 1999, June 28, 1999, July 7, 1999, August 2, 1999, and October 18, 1999.

2.6 Appellant's failure to report to work had a negative impact on the department's ability to efficiently and effectively meet its business needs, caused excessive workloads for her coworkers and negatively affected the quality of the work area under her responsibility.

2.7 On February 29, 2000, Kelli Mehlman, Appellant's supervisor, discovered Appellant using the laundry machines located in a student dorm. Appellant was washing her personal laundry. Ms. Mehlman had previously advised Appellant that use of university owned laundry facility for private use was not allowed.

2.8 Gerald J. Marczyński, Director of Housing and Dining Services, was Appellant's appointing authority when the disciplinary action was taken. Prior to determining what disciplinary action to take, Mr. Marczyński met with Appellant to discuss the seriousness of her failure to report to work on a regular basis. Mr. Marczyński concluded that although the quality of Appellant's work was good when she was present at work, her unplanned absences were unacceptable and had a negative impact on the work getting done and on

1 staff morale because other custodians were required to pick up her workload. In determining the appropriate
2 level of discipline, Mr. Marczynski considered the department's attempts to work cooperatively with
3 Appellant to obtain verification of Appellant's absences due to illness, Appellant's personnel file, and
4 Appellant's awareness of her responsibility to submit medical verification when absent due to medical
5 conditions. Mr. Marczynski also determined that Appellant's use of the university owned laundry facilities
6 constituted misconduct and warranted disciplinary action. Mr. Marczynski concluded that termination was
7 the appropriate sanction in light of Appellant's failure to improve her attendance at work, her refusal to
8 submit medical verification and her use of state resources for personal gain.

10 **III. ARGUMENTS OF THE PARTIES**

11 3.1 Respondent argues that Appellant had an extensive history of unplanned absences which negatively
12 impacted the quality of her work and the morale of other custodians who were required to perform her duties
13 while she was absent. Respondent argues that Appellant received two letters of reprimand and two
14 reductions in pay due to her excessive absenteeism but that progressive discipline failed to aid Appellant to
15 improve her work attendance. Respondent asserts that Appellant failed to submit medical verification for
16 absences due to illness. Furthermore, Respondent argues that Appellant was aware that she was prohibited
17 from using the student laundry facility for personal use, but that she did so despite this knowledge.
18 Respondent argues that termination was appropriate in light of Appellant's misconduct, her history of
19 progressive discipline, and the impact of her repeated behavior to clients and staff.

21 3.2 Appellant did not provide a defense to the charges nor did she dispute the appropriateness of the
22 disciplinary sanction before the Board.

24 **IV. CONCLUSIONS OF LAW**

25 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

1 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the
2 charges upon which the action was initiated by proving by a preponderance of the credible evidence that
3 Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate
4 under the facts and circumstances. WAC 358-30-170; WAC 251-12-240(1); Baker v. Dep't of Corrections,
5 PAB No. D82-084 (1983).

6
7 4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her employer
8 and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't of Social & Health
9 Services, PAB No. D86-119 (1987).

10
11 4.4 Inefficiency is the utilization of time and resources in an unproductive manner, the ineffective use of
12 time and resources, the wasteful use of time, energy, or materials, or the lack of effective operations as
13 measured by a comparison of production with use of resources, using some objective criteria. Anane v.
14 Human Rights Commission, PAB No. D94-022 (1995), *appeal dismissed*, 95-2-04019-2 (Thurston Co.
15 Super. Ct. Jan. 10, 1997).

16
17 4.5 Insubordination is the refusal to comply with a lawful order or directive given by a superior and is
18 defined as not submitting to authority, willful disrespect, or disobedience. Countryman v. Dep't of Social &
19 Health Services, PAB No. D94-025 (1995).

20
21 4.6 Excessive tardiness or excessive absenteeism that causes a burden or undue hardship of fellow
22 employees or a reduction in productivity is just cause for discipline in compliance with WAC 251-11-030.
23 Burgess v. University of Washington, PAB No. D93-151 (1994).

24
25 4.7 Respondent has met its burden of proving that Appellant's excessive absences constituted
26 inefficiency and a neglect of her duty. Appellant's failure to provide the requisite physician's statement as

1 directed to by her superiors constituted insubordination. Furthermore, Appellant misused state resources
2 when she used university owned laundry facilities for personal use. Appellant had been directed to cease
3 using the laundry facility and her failure to do so also constituted insubordination.

4
5 4.8 Although it is not appropriate to initiate discipline based on prior formal and informal disciplinary
6 actions, including letters of reprimand, it is appropriate to consider them regarding the level of the sanction
7 which should be imposed here. Aquino v. University of Washington, PAB No. D93-163 (1995).

8
9 4.9 Respondent has met its burden of supporting the charges and proving that termination is appropriate
10 under the facts and circumstances. Therefore, the disciplinary sanction should be affirmed.

11
12 **V. ORDER**

13 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Stefanie Lundgren is denied.

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15 DATED this _____ day of _____, 2000.

16
17 WASHINGTON STATE PERSONNEL APPEALS BOARD

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19 _____
Walter T. Hubbard, Chair

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21 _____
Gerald L. Morgen, Vice Chair